

10

October 11, 2000

**EXHIBITION PLACE**

TO: The Board of Governors of Exhibition Place

FROM: Kathryn Reed-Garrett
Director of Business Development

SUBJECT: Ernie's Arcade, operating as The 7-Up Stand

Recommendations:

It is recommended that the current agreement with Ernie's Arcade Limited for the operation of the 7-Up Stand located on the exterior of the Food Building be renewed for three (3) years on the terms and conditions recommended in this report and such other terms as required by the City Solicitor.

Background:

At its meeting of January 28, 2000, the Board approved entering into a one-year lease agreement with Ernie's Arcade for the operation of the 7-Up Stand, which lease expires December 31, 2000. The terms of the current one year lease agreement provided for no increase in base rent, which rent is \$12,000 per annum or 8% of gross sales, whichever is greater; plus payment of all realty taxes, all utility costs, all interior maintenance costs and any other associated occupancy costs.

Discussion:

Ernie's Arcade has been operating a food and beverage business in the 7-Up Stand. This agreement expires on December 31st and Ernie's Arcade wishes to renew their lease with the Board for a period of three years. For the information of the Board, Ernie's Arcade is also the operator of the Bandshell Café, which lease also expires December 31, 2000 and which lease renewal and the terms of that renewal have been submitted to the Board for its consideration under a separate report.

Staff are recommending a lease term of three years with no rent increase in year one and a rent increase at the rate of CPI (Canadian Price Indexing) for the second and third years of the term. As set out below, the background to this recommendation is the tenancy arrangements previously negotiated with this tenant over its 20 years history on the grounds and the past three years of increases experienced by Ernie's Arcade.

As indicated above, Ernie's Arcade operates two businesses on the site. In 1997, the Board received minimum rent of \$6,300.00 for the 7-Up Stand and received percentage rent only from the Bandshell Café equivalent to \$13,000.00. However, the Board paid 100% of the realty taxes assessed for both the Bandshell Café and the 7-Up Stand, and, in addition, the Board paid for a

portion of the maintenance costs of both businesses. Since 1997, staff has had many meetings with Ernie's Arcade to regularize the leasing arrangements by clarifying the maintenance costs and by requiring Ernie's Arcade to assume full responsibility for 100% of realty taxes. This has increased their annual costs for taxes alone by \$32,282.00 for the Bandshell Café and \$4,134.00 for the 7-Up Stand – equivalent to an overall increase of 105.7% over the past 3 years.

In recognition of the foregoing, staff recommend that there be no increase to minimum rent in 2001 and that minimum rent in 2002 and 2003 be increased at the rate of CPI (Canadian Price Indexing). This is the final step to fully regularize the Board's lease agreement with Ernie's Arcade for the 7-Up Stand.

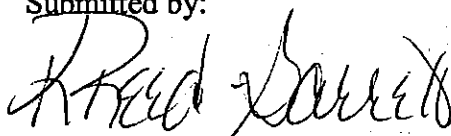
Accordingly, the substantial terms of the lease agreement with Ernie's Arcade for the 7-Up Stand are as follows:

- (a) Term: Three years commencing January 1, 2001;
- (b) Rent: 2001 - \$12,000 per annum or 8% of gross sales, whichever is greater; plus payment of all realty taxes, all utility costs, all interior maintenance costs and any other associated occupancy costs;
2002 - \$12,000 per annum or 8% of gross sales, whichever is greater plus CPI adjustment as prescribed by Statistics Canada; plus payment of all realty taxes, all utility costs, all interior maintenance costs and any other associated occupancy costs;
2003 - \$12,000 per annum or 8% of gross sales, whichever is greater plus CPI adjustment as prescribed by Statistics Canada; plus payment of all realty taxes, all utility costs, all interior maintenance costs and any other associated occupancy costs
- (c) Permitted Uses: the operation of a fast food and beverage business;
- (d) Insurance: Property and liability insurance with limits of \$5 million in form satisfactory to the City; Operation during the Canadian National Exhibition: Ernie's Arcade agrees to operate the 7-Up Stand during the hours of operation as prescribed by the CNEA and the Board; and will observe hours of operation during the balance of the operating year as prescribed by the General Manager and CEO; and,
- (e) Special Conditions: the Board agrees to waive Minimum Rent during the period of the annual Canadian National Exhibition ("CNE") if Ernie's Arcade is required to remit commissions on sales from this location to the CNEA for that period.

Conclusion:

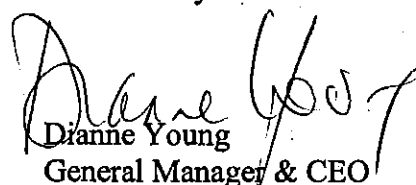
This report recommends extending the current agreement with Ernie's Arcade for the operation of The 7-Up Stand for a period of three years, to expire on December 31, 2003, on the terms and conditions set out and such other terms required by the City Solicitor.

Submitted by:



Kathryn Reed-Garrett
Director, Business Development

Reviewed by:



Dianne Young
General Manager & CEO